HARVARD LAW REVIEW

Published monthly, during the Academic Year, by Harvard Law Students

SUBSCRIPTION PRICE, $4.50 PER ANNUM . . . . . 60 CENTS PER NUMBER

THE HARVARD LEGAL AID BUREAU, 1921–1922. — The Harvard Legal Aid Bureau, incorporated in 1914 by students of the Law School for the purpose of rendering gratuitous legal assistance to those members of the community who could not afford to retain regular counsel, has this spring completed its eighth active year. Twenty men have been engaged in the Cambridge office of the Bureau at 763 Massachusetts Avenue, where during the six months of October through March a total of 232 cases were handled — a figure considerably in excess of those of previous years. In addition to this, fifteen men were assigned to the office of the Boston Legal Aid Society in Ashburton Place, Boston, to act as assistants to the lawyers there regularly employed by the Society.

An examination of the cases disposed of during the year discloses a remarkable variety, with a preponderance of wage claims, domestic difficulties, and claims under the Workmen's Compensation Act. Wherever possible the disputes were settled out of court; often this was accomplished by the intervention of the Cambridge Welfare Union or some other charitable organization. In those instances in which court action was necessary it was taken. The following examples are selected from the more interesting of the recent cases:

A painter died from carbon monoxide poisoning while working in the shipbuilding plant at Squantum, Massachusetts. Two law firms had successively taken the case for the widow, but both were discouraged by the difficulty of finding any witnesses, since the men who worked with

the deceased had scattered after the plant was closed down. As the insurance company of the employer refused to settle, a notice of disagreement was filed and a hearing had before a single member of the Industrial Accident Board. The hearing lasted three days. The evidence was undisputed that the deceased worked for three weeks on girders thirty feet above fifteen salamander stoves discharging an uncertain quantity of carbon monoxide; that he died eighteen days later from a massive cerebral hemorrhage accompanied by small perivascular hemorrhages; that he was suffering from hardening of the arteries, enlargement of the heart, and Bright's disease before he died, which diseases made him peculiarly sensitive to carbon monoxide by producing high blood pressure; but that deceased never went into a state of coma, and that no case of gas poisoning without coma was on record. The insurance company claimed that it was a simple case of spontaneous hemorrhage (apoplexy). For the widow it was argued that it was only necessary to prove an acceleration of an existing ailment;[1] and that the Board interprets this as including an increase to the results of an existing ailment, no matter how slight.[2] At the direction of the Board member the case was settled for $2000 without appealing.

A seamstress, the plaintiff, was evicted from her house in an ejectment proceeding, and the sheriff hired the defendant, a moving and express man, to move the furniture to a storage warehouse. In so doing, the defendant dropped and broke a sewing machine. He later removed the machine from the warehouse against the plaintiff's orders. The declaration, drawn by a lawyer previously employed by the plaintiff, contained a count for injury to the machine, but no allegation of negligence was made and no count in trover was included. On this declaration judgment was given for the client, and the defendant has appealed. It is believed that the judgment below should be affirmed on the ground that the expressman, in the position of a common carrier, is subject to a relational duty rather than a duty arising out of contract.[3]

A client applied to the plaintiff employment agency for work, and received a card recommending him to X, who was represented as wanting a janitor at $23 a week. The client signed a card in the form of a promissory note for the amount of one week's salary conditioned on his getting the job. Later in the day he went to a free public employment agency to which he applied for a position without mentioning his prior application to the plaintiff agency, and from them received a card to X who was said to be looking for a man for $24 a week. He later discovered for the first time that the two X's were identical. Going to X he showed the card of the free agency only and obtained employment at $25 a week. The plaintiff sued for $25. At the trial it was contended for the defendant (1) that the agreement was aleatory and therefore no

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[1] Brightman's Case, 220 Mass. 17, 107 N. E. 527 (1914); Madden's Case, 222 Mass. 487, 111 N. E. 379 (1916). [The REVIEW does not itself assume responsibility for the statements of law or citations of authority in this note. They are introduced rather for the purpose of indicating the Bureau's treatment of the cases it tried. — *Ed.*]

[2] Homan's Case, 2 MASS. COMP. CASES, 775.

[3] STORY, BAILMENTS, § 1309; Finn *v.* Western R. R. Corporation, 112 Mass. 524 (1873).

contract;[4] and (2) that the defendant had given up what was merely the offer of the plaintiff, and had acted on the offer of the free agency;[5] or (3) that even if there were a contract the necessary condition had not been complied with because the defendant had obtained the job by his own efforts and not through any assistance of the plaintiff. After the trial the case was reargued twice and written briefs were submitted. Judgment was given for the plaintiff for $23. As the plaintiff agreed to settle and waive all costs the case was not appealed.

VALIDITY OF FEDERAL DEPARTMENTAL REGULATIONS INVOLVING CRIMINAL RESPONSIBILITY. — The exigencies of government have increasingly demanded that official and individual conduct be controlled by expert and flexible departmental regulation rather than by the cumbersome processes of legislation.[1] Congress has therefore frequently authorized the heads of the departments to issue regulations,[2] the disregarding of many of which involves criminal responsibility. Is such regulation[3] a valid exercise of power by the executive? The subject may properly[4] be divided into two main heads: (1) Is a given regulation beyond the limits of the statute? (2) Is the statute beyond the limits of the federal constitution? A failure to regard this distinction has led to unfortunate confusion in the opinions.

Assuming that the defendant has violated a departmental regulation,[5] for which the government seeks to hold him criminally responsible, the court must determine whether the regulation is beyond the powers

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[4] Vogel *v.* Pekoc, 157 Ill. 339, 42 N. E. 386 (1895); Montreal Gas Co. *v.* Vasey, [1900] A. C. 595.

[5] Crowninshield *v.* Foster, 169 Mass. 237, 47 N. E. 879 (1897).

[1] See G. Norman Lieber, "Executive Regulations," 31 AM. L. REV. 876, 889–890; J. B. Whitfield, "Legislative Powers That May Not Be Delegated," 20 YALE L. J. 87, 93; Stephen A. Foster, "The Delegation of Legislative Power to Administrative Officers," 7 ILL. L. REV. 397, 399–402.

[2] Courts take judicial notice of regulations. Caha *v.* United States, 152 U. S. 211, 221 (1894). It would seem good practice, however, to plead the regulations in the indictment. See United States *v.* Slater, 123 Fed. 115, 121 (D. Nev., 1903).

[3] Technically, a regulation does not include the special application by the executive of a rule to a particular concrete case. See GOODNOW, PRINCIPLES OF THE ADMINISTRATIVE LAW OF THE UNITED STATES, 322–345. This type of administrative action requires the exercise of a judicial function by the executive, and with this we are here not concerned. See United States *v.* Moody, 164 Fed. 269, 273 (W. D. Mich., 1908).

[4] See Bruce Wyman, "Jurisdictional Limitations upon Commission Action," 27 HARV. L. REV. 545, 550. And see *In re* Gray, 57 Can. Sup. Ct. 150, 156–157 (1918).

[5] If the defendant's act or omission to act is a violation of the express terms of some complete statutory prohibition or command, it is unnecessary to consider the regulation. See United States *v.* Keitel, 211 U. S. 370, 395 (1908); United States *v.* Foster, 233 U. S. 515 (1914). *Cf.* La Bourgogne, 210 U. S. 95, 134 (1908). And it may, of course, be that what the defendant has done or failed to do is not a violation of the statute or of the regulation, properly construed. In such a situation it seems clear that there is no basis for a criminal prosecution. See United States *v.* Manion, 44 Fed. 800, 801 (D. Wash., 1890); United States *v.* Three Barrels of Whiskey, 77 Fed. 963, 965 (Circ. Ct., E. D. N. C., 1896); United States *v.* Lamson, 165 Fed. 80, 85–86 (Circ. Ct., D. R. I., 1908). Moreover, it has been held that a refusal of the employee of a federal department to obey the order of a state court would not render him liable to imprisonment